

# **CURRENT SYSTEM STUDY**

**A COMPARISON OF SALARY-SETTING PROCESSES FOR EXCLUDED  
AND EXEMPT EMPLOYEES IN CALIFORNIA STATE SERVICE  
(PRE- AND POST-COLLECTIVE BARGAINING)**

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**STATE EXCLUDED AND EXEMPT EMPLOYEES SALARY-SETTING TASK FORCE**

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# CURRENT SYSTEM STUDY

## A COMPARISON OF SALARY-SETTING PROCESSES FOR EXCLUDED AND EXEMPT EMPLOYEES IN CALIFORNIA STATE SERVICE (PRE- AND POST-COLLECTIVE BARGAINING)

### PURPOSE OF THIS STUDY

The purpose of this study is to factually describe California's current system and processes used for setting salaries for "excluded" and "exempt" state employees covered by Government Code Section 19836.1, and to provide a historical overview of how those processes evolved.

Briefly, "excluded employees" are state managers, supervisors and confidential employees who are excluded from the collective bargaining statute that covers state civil service employees; "exempt employees" include appointees and other employees who are exempt from state civil service.

### SALARY-SETTING PRIOR TO 1982

Prior to the implementation in 1982 of collective bargaining for all state civil service rank-and-file employees, salary ranges and benefits for workers employed by the State of California were established through a number of processes: the Legislature annually determined salaries for elected state officers in statute; the Department of Finance set salaries for most positions exempt from state civil service (normally appointees of elected officials); the State Personnel Board (SPB) set salaries for all state civil service employees as well as adjusting salaries for judges based upon salary ranges for state civil service; and the University of California and California State University set salaries for employees in their respective systems.

### SALARY-SETTING SINCE 1982

Today, salaries of elected officials are established by the California Citizens Compensation Commission. This commission and its governance process were enacted by voters through a ballot measure passed in 1990 known as Proposition 112. Salaries of exempt and excluded employees are set by the Department of Personnel Administration (DPA), which also sets salaries for judges (i.e., judges receive the same general salary increases as civil service rank-and-file employees). Salary ranges for rank-and-file state employees

*See APPENDIX A for the complete text of Government Code (GC) Sections 19824 through 19838.*

*See APPENDIX B for a fact sheet on the California Citizens Compensation Commission.*

are subject to collective bargaining by each of 21 individual bargaining units. The University of California and California State University systems continue to set salaries for employees within their own systems.

#### WHO ARE EXCLUDED EMPLOYEES?

“Excluded employees” are employees who are excluded from collective bargaining under the Ralph C. Dills Act (Government Code Section 3512 et seq). Government Code Section 3513 (c) of the Dills Act expressly excludes employees who are designated as managerial (formulate policy), supervisory (implement policy and supervise the work of others), and confidential employees (non-managerial and non-supervisory employees who have access to confidential information pertaining to collective bargaining, employee grievances, etc.). The Dills Act also excludes all employees in certain specified departments, such as DPA where all employees potentially have access to the development of collective bargaining positions. It also excludes specific groups of employees within specified departments, such as the majority of professional employees in the Department of Finance who may be involved in determining financing for collective bargaining proposals, and all conciliators of the State Conciliation Service in the Department of Industrial Relations who are responsible for resolving disputes resulting from the collective bargaining process.

*See APPENDIX C for  
the complete text of GC  
Section 3513(c)*

#### EXCLUDED EMPLOYEE SALARY-SETTING PRIOR TO COLLECTIVE BARGAINING

Prior to 1982, the SPB relied on three basic principles when setting salary ranges for state civil service employees:

— Outside Data: Consideration was given to prevailing rates for comparable service in other public employment and in private business.

— Internal Relationships: Like salaries were paid for comparable duties and responsibilities.

— Funding: The costs of salary adjustments could not exceed existing appropriations which could have been used for salary increase proposals.

#### Outside Data Collection Prior to Collective Bargaining

The SPB’s philosophy regarding state salary ranges was to attempt to keep the ranges in line with average salaries outside state service, with particular emphasis on comparable salaries in private industry.

Toward this end, the SPB Pay and Benefits Center, in

cooperation with the Federal Bureau of Labor Statistics, annually surveyed about 700 private businesses in the Los Angeles and San Francisco Bay areas, as well as some of the larger metropolitan and non-metropolitan public jurisdictions in California. Data was collected for about 70 entry-level and journey-level benchmark jobs in private industry and a number of additional jobs unique to government.

Surveys conducted by the SPB Pay and Benefits Center were time- and labor-intensive. The Center was staffed with nine permanent professional positions. Employees from other divisions of SPB and from outside agencies participating in the surveys were recruited on a temporary basis to assist in the field data collection for the surveys. Each survey required approximately five to six weeks to conduct and complete.

Supervisory and managerial jobs were not included in salary surveys as they did not lend themselves to survey responses because of the many organizational differences with supervisory and managerial jobs in the private sector. The salary ranges for supervisory and managerial jobs were, therefore, based largely on internal relationships with state classifications in the occupational field.

From the salary data for the benchmark classifications, salary lead or salary lag (i.e., percent that state salaries were either higher or lower than average salaries of the benchmark jobs) was calculated for each occupational group (see Internal Relationships). This lead or lag provided the primary basis for a General Salary Increase (GSI).

Private industry data was the primary determinant for state civil service salary ranges for positions commonly found in private industry. For jobs unique to government, public agency salary ranges served as the primary determinant for state civil service salaries. In the years just prior to collective bargaining, public agency and private data were used for all jobs included in the survey to ensure that the state remained competitive with the public sector. In some cases, there was insufficient private and public sector job data for salary comparisons with a state occupation. When this occurred, salary ranges in a classification were normally determined by using a pre-established formula (for example, one salary range was set at 5 percent below that of the higher-skilled benchmark class).

Traditionally, state civil service classifications received the same basic increase, which was normally provided in percentage amounts. In a typical salary increase program, all state employees would receive a general percentage increase

to bring state civil service salaries in line with private industry and other government agencies. (There were some exceptional years in which lower-paid employees received flat dollar increases as a means of specifically addressing the plight of lower-paid employees.) Selected occupational groups or individual classifications would be provided special additional adjustments above the GSI when there was a significantly greater salary lag in their occupational area or a need to realign internal relationships. This practice allowed the state to maintain appropriate differentials and salary relationships between classifications in the occupational groups, thereby avoiding salary compaction within promotional lines.

Salary ranges for state classifications were set on a statewide basis with no geographic differentials. In general, state employees were paid at the mean level of salaries in the Los Angeles, San Francisco and Sacramento metropolitan areas. Salary range increases for each class in an occupational group were determined by outside salary data for the benchmark job used in the occupational group.

The SPB did not take the cost of living into account when setting salary ranges since changes in the cost of living were viewed as already being reflected in the salary survey data.

Benefits for managerial and supervisory employees were the same as those for working-level employees.

#### Internal Relationships Prior to Collective Bargaining

State jobs were grouped into classifications, and classifications into occupational groups (e.g., law enforcement, public health, accounting and fiscal services). These occupational groups included rank-and-file workers, supervisors and managerial employees within the same general occupational field. Analytical judgments were reached as to the proper salary relationship between classifications within occupational groups.

As a general philosophy, the state tried to maintain a minimum 10 percent salary differential between classifications within promotional lines (e.g., journey level to first supervisory level, first supervisory level to second supervisory level, etc.) and to maintain salary parity between similar classifications at the same level of responsibility (e.g., Associate Budget Analyst to Associate Personnel Analyst). Prior to collective bargaining, supervisory classifications were sometimes 15 to 20 percent above their highest paid subordinates. Adjustments were made to the internal salary relationships within the occupational group as state jobs evolved and/or grew dissimilar. The differentials between classifications tended to narrow as more

supervisory and managerial levels were created and narrowed the room for differentials within many series.

Salaries for the highest level managerial classifications in civil service often were subject to “compaction.” Generally speaking, exempt positions created salary ceilings for certain civil service salaries. Lesser increases provided for exempt positions caused certain civil service managerial classifications to move close to, or in some cases even exceed, salaries of exempt employees in order to provide appropriate differentials over subordinate civil service classifications. Consequently, salary ranges of state civil service managerial classifications were curtailed so that they would not exceed or unduly approach the salaries of exempt managerial positions.

#### Salary-setting and Funding Prior to Collective Bargaining

Salary-setting by the SPB was essentially a three-step process:

Step 1: Salary surveys were conducted in the fall by SPB staff, and public hearings and discussions with employee organizations that represented state employees were held shortly thereafter. The lag between salaries of state civil service employees and salaries of private industry and other public agencies was identified using the survey data as well as additional information obtained through public hearings. The lead and lag data were analyzed and the SPB calculated the amount of funding necessary to provide recommended compensation adjustments.

Step 2: Based on these calculations, the SPB prepared a report to the Governor and the Legislature in December of each year recommending the level of salary increases and the funding needed for the coming fiscal year. Funding for employee compensation was then appropriated by the Legislature through the Annual Budget Act.

Step 3: Survey data was rechecked in the spring to confirm or adjust the salary funding recommendations that were made in the fall. Within the amount of funding appropriated by the Legislature and approved by the Governor, the SPB would adjust state civil service salaries. Adjustments usually became effective on July 1 of each year.

#### **EXCLUDED EMPLOYEE SALARY-SETTING AFTER COLLECTIVE BARGAINING**

With adoption of the State Employer-Employee Relations Act in 1977 (now the Ralph C. Dills Act), DPA assumed the responsibility from SPB for setting the salary ranges and

determining the benefits for excluded employees. Government Code Sections 19824 through 19838 that govern salary administration, classification, miscellaneous reimbursements, sick leave, vacation, etc., previously administered by SPB, were established essentially verbatim as new government codes to be administered by DPA. The only substantive changes to these statutes were that a standard supercession clause was added to most of the codes. The supercession clause allows the specific section of law to be overridden by the terms in a collective bargaining agreement.

While the codes could be superceded by a collective bargaining agreement for rank-and-file employees, they still applied in their original form to excluded employees. Consequently, the transfer of the administration of these various areas from SPB to DPA resulted in the status quo with very little change. The 1977 legislation that gave DPA complete control over all salary ranges and benefits for excluded employees, except retirement and health insurance, was subject only to a limited obligation to meet and confer. It did not require DPA to reach an accord with the representative organizations.

Today, DPA tries to consider the following four basic factors when setting salaries for state civil service employees:

- Employee organization input
- Internal relationships
- Outside data
- Salary-setting and funding

#### Employee Organization Input After Collective Bargaining

The collective bargaining statute for state employees, known as the Ralph C. Dills Act, is limited to rank-and-file employees. Excluded employees, as defined in the statute, include supervisory, managerial and confidential employees who do not have collective bargaining rights. The Bill of Rights for State Excluded Employees (Government Code Section 3525 et seq.) extends limited meet and confer rights, which are essentially consultative in nature, to employee organizations that represent excluded employees. There are 19 employee organizations registered with DPA that represent excluded employees in state service.

Upon request of any excluded employee representative organization, DPA meets and confers with excluded employee organizations on managerial and supervisory pay and benefit issues. Unlike a collective bargaining environment, however, there is no obligation for the state to meet and confer in good

*See APPENDIX A for the complete text of GC 19824 through 19838.*

*See APPENDIX D for the complete text of GC 3525 et seq.*



faith and reach agreement with the registered organizations on any issues affecting their members. Government Code Section 3533 provides that DPA must meet and confer with the organizations, but consider only "as fully as the employer deems reasonable" the information or concerns that are presented in the meetings.

The limitations of this supervisory meet and confer process were delineated in a recent court decision. The basic issue of the case was whether or not the state failed to meet and confer in compliance with the law when it rescinded an announced salary increase for excluded employees before the excluded employee organization (that filed the lawsuit) fully presented its position regarding the salary program. While the court ruled that the state did not violate the law because it did meet with the employee organization filing the case, the judge stated in his ruling that the law provides that the supervisory organizations may make "presentations" and that "because of the vagueness of that language, the employer could deem it reasonable to have a five-minute conversation in the hallway." The court further stated that "... The statute presents a huge conundrum. ... It's vague. There aren't any definitions. It uses generic terms without telling us what they mean and it appears to give the employer ultimate discretion in this area, and I think if you're going to address it, you need to address it with the appellate court or the Legislature." In the above-referenced case, the employee organization had participated in a state-called meeting attended by most of the 19 DPA-registered excluded employee organizations during which the proposed salary program was discussed.

DPA has determined that the supervisory meet and confer process is beneficial in that it helps identify compensation and benefit adjustments that should or could be extended to excluded employees, helps identify the most severe recruitment and retention problems, and results in creative compensation concepts for the annual excluded employee pay program. Most of the excluded employee organizations agree, however, that the state lacks responsiveness in the current process of meeting and conferring because it is not required to respond, but must consider only "as fully as the employer deems reasonable" the presentation and concerns of the representative organizations. The strong feelings expressed by employee organizations that represent excluded employees, as well as the excluded employees themselves and department management, are that the current process is not responsive to the needs of both the state and excluded employees.

*See APPENDIX D for the complete text of GC 3533.*

*See PECG et al vs. State, Case No. 03CS00918 and 03CS00994*

### Internal Relationships After Collective Bargaining

In the early years following transfer of responsibility for pay and benefits for excluded employees from SPB to DPA, the policy DPA followed with regard to pay and benefits for excluded employees was similar to the policy followed by the SPB. Generally, DPA believed that supervisory and managerial employees should be paid a minimum of 10 percent over those they supervised or managed. (Exceptions to this policy were not uncommon, such as when hospital administrators supervised professional staff in specialized fields, such as physicians.)

Independent negotiations of the bargaining units very quickly led to termination of historical salary ties to other classifications in state service and the elimination of traditional salary formulas. Negotiations allow individual classifications, rather than whole occupational groups, to receive salary adjustments. Because salary increases routinely are no longer provided to occupational groups as a whole, traditional salary relationships between similar classifications and classifications in a promotional line are nonexistent. Further, “creativity” by contract negotiators and flexibility in the negotiation process have allowed the establishment (and extensive use) of numerous pay differentials and other additional forms of compensation (e.g., seniority or longevity pay, geographic pay, educational pay, etc.). These “add on” pay differentials can, and often do, apply to the majority of rank-and-file employees in a bargaining unit, but not to their managers or supervisors.

While DPA still tries to maintain a minimum 10 percent between managers and supervisors and those they supervise, there is nothing written in state policy or codified in law that would compel the state to adhere to this differential. Consequently, the problem of salary compaction is widespread between rank-and-file employees and their supervisors and succeeding levels of management. Often, compaction occurs in a domino effect up the line (rank and file to supervisor, supervisor to supervisor, and supervisor to manager). When salary ranges, pay differentials, regular overtime and other pay incentives are added up, it is common to find supervisors who not only do not meet the minimum 10 percent differential, but are paid less than their immediate subordinates.

### Outside Data After Collective Bargaining

Government Code Section 19826 requires that DPA conduct an annual salary survey and submit a report to the parties meeting and conferring and the Legislature by Jan. 10 of each year. The report must contain the department’s findings relative to salaries of employees in comparable occupations in private

*See APPENDIX A for the complete text of GC Section 19826.*

industry and other governmental agencies. This report is a carryover from the days when the SPB conducted comprehensive salary surveys.

Unlike the extensive salary data collection effort conducted by SPB, however, DPA's effort to compare compensation paid to state employees is minimal. Salary survey responsibilities at DPA are vested in a single position. Governmental data is obtained by mail, telephone or electronic communication (e-mail). Benchmark data from the private sector is extracted from published surveys purchased by DPA. The DPA survey is restricted to approximately 40 entry- and working-level benchmarks in some 20 governmental jurisdictions; no private businesses are contacted. Lead and lag information are not calculated from the data collected. Field audits are not conducted and data in the survey is not validated. Essentially, the survey simply provides a general indication of how state salaries compare to salaries paid in the general occupational marketplace in other governmental entities.

#### Salary-setting and Funding for State Excluded Employees After Collective Bargaining

Prior to opening collective bargaining negotiations, DPA solicits proposals from state agencies regarding salary levels, benefits and other terms and conditions of employment for both rank-and-file and excluded employees. About the time collective bargaining negotiations begin for rank-and-file employees, excluded employee representative organizations also request to meet and confer with DPA to present their proposals and ideas regarding salaries, benefits and other matters for excluded employees. Information obtained from the departments and through the supervisory meet-and-confer process enable DPA to identify the most critical compensation and benefit issues.

After negotiations for a bargaining unit are concluded and the state knows what compensation adjustments are to be provided for rank-and-file employees in that unit, a compensation impact analysis on excluded classifications affiliated with the unit is conducted by DPA, with the impact determined using both salary and "add on" pays. This analysis identifies the adjustments necessary to maintain appropriate differentials between classifications of managerial and supervisory employees and related rank-and-file classifications. (Adjustments are generally recommended when the compensation differential between supervisory and rank and file classifications is less than 10 percent.) Because the impact analysis cannot be conducted until rank and file adjustments are known, the excluded employee compensation

package is highly dependent on rank and file negotiations. After implementation of collective bargaining, DPA was able to follow the SPB's policy of extending salary and compensation adjustments for rank and file classifications to affiliated or related managerial and supervisory classifications. In recent years, however, sufficient funding has not been made available. Consequently, after several years of collective bargaining and a succession of collective bargaining agreements containing special pay adjustments and differentials for state rank-and-file employees, the 10 percent salary relationship guideline is not consistently maintained.

Today, salary-setting for excluded civil service employees is basically a three-part process, driven primarily by availability of funds:

1) Employee compensation funds are appropriated by the Legislature in the annual Budget Act. The appropriation covers both general salary increases and other compensation adjustments for state employees. It is important to note that funds identified in the annual Budget Act are allocated as a lump sum, not designated for any specific groups of employees.

2) How does the money get into the budget for excluded employees? The DPA director tells his staff that there is a specific excluded employee pay program to be implemented. His staff calculates the cost of the program and informs the Department of Finance, after verifying the calculations, then adds that amount to the Governor's proposed budget Item 9800 (Employee Compensation) to augment existing department budgets for the increase in employee salaries.

3) After the Legislature passes a "final budget" and presents it to the Governor, the Governor can use his veto authority for specific items before signing the budget. The appropriation of funds in Item 9800 provides the DOF with the authority to transfer the money from the budget item to each agency for salary and benefit purposes.

#### WHO ARE EXEMPT EMPLOYEES?

"Exempt" employees are state employees who are exempt from civil service. Thirteen categories of exempt employees are identified under Article 7, Section 4 of the California Constitution. Government Code Section 19836.1 limited the salary-setting process developed by the task force to those exempt employees covered by paragraphs (e), (f) and (g) of this section. Generally, these are appointees of the Governor, Lieutenant Governor and certain subordinate employees of the

*See APPENDIX E for the complete text of Article 7, Section 4, of the California Constitution.*

Governor's appointees.

Specifically, the process being proposed by the task force would apply to exempt employees who serve as:

(e) a deputy or employee selected by each board or commission either appointed by the Governor or authorized by statute;

(f) state officers directly appointed by the Governor with or without the consent or confirmation of the Senate, employees in the Governor's office, and employees in the Lieutenant Governor's office directly appointed or employed by the Lieutenant Governor;

(g) a deputy or employee selected by each officer, except members of boards and commissions, exempted under Section 4(f).

#### SETTING SALARIES OF EXEMPT EMPLOYEES PRIOR TO COLLECTIVE BARGAINING

Prior to implementation of collective bargaining in state service in 1982, salaries for employees exempt from civil service were primarily set by the DOF. (Statutorily exempt positions, such as department directors, had salaries set within their authorizing statute. The law provided that salaries for these positions would be increased based upon the average increase for state civil service employees.) For the majority of exempt positions, the law simply provided that the appointing power (employing agency or department) could fix or set salaries. However, Government Code Section 18004 (since revised) instilled DOF with broad general authority to approve or disapprove salary rates for exempt employees. Appointing authorities would propose salaries for their exempt positions, subject to the approval or disapproval of DOF, which maintained an Exempt Classification and Pay Coordinator to administer this program.

DOF followed a policy of not recognizing any special premium for exempt status and was guided by SPB rules and procedures and civil service law in its approval of exempt personnel transactions. This meant that the universal principle of comparable pay for substantially similar duties and levels of responsibility, consistent with internal relationships and the statewide pay structure, was applied to all appointing authority proposals. Individual appointment rates within the exempt salary range were approved under the same general standards as those used by SPB in administering promotions and new appointments for civil service employees.

## SETTING SALARIES OF EXEMPT EMPLOYEES AFTER COLLECTIVE BARGAINING

With the advent of collective bargaining in state civil service in 1982, the function of setting salaries and benefits for exempt employees of the executive branch, including members of the judiciary but excluding state constitutional officers and members of the Legislature, was transferred to DPA from DOF. The process of setting salaries for exempt employees of the state has not changed substantially except for the approving authority. The law still provides that the appointing power may fix or set salaries in accordance with law, and the authority to approve or disapprove salaries for exempt positions resides with DPA. The Exempt Unit at DPA receives the appointing authority's proposal and compares the duties and level of responsibilities to similar exempt and civil service positions. Salaries are set based on these comparisons and the salary ranges established in the Exempt Employee Pay Scale.

# APPENDIX A

## CALIFORNIA GOVERNMENT CODE SECTIONS 19824-19838

19824. (a) Unless otherwise provided by law, the salaries of state officers shall be paid monthly out of the General Fund.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

19825. (a) Notwithstanding any other provision of law, whenever any state agency is authorized by special or general statute to fix the salary or compensation of an employee or officer, which salary is payable in whole or in part out of state funds, the salary is subject only to the approval of the department before it becomes effective and payable, except as provided in subdivision (b). The Legislature may expressly provide that approval of the department is not required.

(b) Whenever any state court or other judicial agency is authorized by statute to fix the salary of an employee or officer who is exempt from civil service under subdivision (b) of Section 4 of Article VII of the Constitution, the salary is subject to the approval of the Chairman of the Judicial Council before it becomes effective and payable.

19826. (a) The department shall establish and adjust salary ranges for each class of position in the state civil service subject to any merit limits contained in Article VII of the California Constitution. The salary range shall be based on the principle that like salaries shall be paid for comparable duties and responsibilities. In establishing or changing these ranges, consideration shall be given to the prevailing rates for comparable service in other public employment and in private business. The department shall make no adjustments that require expenditures in excess of existing appropriations that may be used for salary increase purposes. The department may make a change in salary range retroactive to the date of application for these change.

(b) Notwithstanding any other provision of law, the department shall not establish, adjust, or recommend a salary range for any employees in an appropriate unit where an employee organization has been chosen as the exclusive representative pursuant to Section 3520.5.

(c) At least six months before the end of the term of an existing memorandum of understanding or immediately upon the reopening of negotiations under an existing memorandum of understanding, the department shall submit to the parties meeting and conferring pursuant to Section 3517 and to the Legislature, a report containing the department's findings

relating to the salaries of employees in comparable occupations in private industry and other governmental agencies.

(d) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

19826.5. Whenever the department finds that pay data was furnished to the department on the basis that the source remain confidential, the source shall not be open to the public or admissible as evidence in any action or special proceeding.

19827. (a) (1) Notwithstanding any other provision of law to the contrary, in order to recruit and retain the highest qualified employees, the state shall pay sworn members of the California Highway Patrol who are rank-and-file members of State Bargaining Unit 5 the estimated average total compensation for each corresponding rank for the Los Angeles Police Department, Los Angeles County Sheriff's Office, San Diego Police Department, Oakland Police Department, and San Francisco Police Department. Total compensation shall include base salary, educational incentive pay, physical performance pay, longevity pay, and retirement contributions made by the employer on behalf of the employee.

(2) The state and the exclusive representative shall jointly survey annually and calculate the estimated average total compensation based on projected average total compensation for the above-named departments as of July 1 of the year in which the survey is conducted. The state and the exclusive representative shall utilize the survey methodology outlined in the "Description of Survey Process Pursuant to Government Code 19827 Regarding the Recruitment and Retention of California Highway Patrol Officers" dated July 1, 2001, and maintained as a permanent agreement between the state and the exclusive representative.

(3) Any increase in total compensation resulting from this section shall be implemented through a memorandum of understanding negotiated pursuant to the Ralph C. Dills Act (Chapter 10.3 (commencing with Section 3512) of Division 4 of Title 1). Notwithstanding the foregoing, failure of the parties to reach agreement for a memorandum of understanding pursuant to the Ralph C. Dills Act shall not relieve the state of the duty to compensate sworn represented members of the California Highway Patrol in accordance with the formula set forth in this section.

## APPENDIX A (CONTINUED)

(4) The total compensation for represented sworn members of the California Highway Patrol may deviate from the survey results by mutual agreement between the exclusive representative and the state pursuant to the collective bargaining process.

(5) If the provisions of this subdivision are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

(b) When determining compensation for state excluded sworn classifications of the California Highway Patrol, it is the policy of the state to consider total compensation for corresponding ranks within jurisdictions specified in subdivision (a), as well as other factors, including internal comparisons.

19827.1. (a) The state recognizes the historic problem of recruitment and retention of peace officers in the Department of Corrections and the Department of Youth Authority. As evidence of this recognition there has been a trend in recent years to improve salaries and benefits for these correctional peace officers. However, due to the continuing need to recruit new officers to fill vacancies, retain seasoned correctional peace officers to reduce turnover rates, and provide comparability in pay to effectively compete with large peace officer employers and ensure necessary staffing levels, salaries must be improved and maintained by the state for peace officers in the Department of Corrections and the Department of the Youth Authority.

(b) To effect the intent of paragraph (a) the department shall take into consideration the salary and benefits of other large employers of peace officers in California.

19827.2. (a) The Legislature, having recognized December 1980 statistics from the U.S. Department of Labor, finds: that 60 percent of all women 18 to 64 are in the workforce, that two-thirds of all those women are either the head of household or had husbands whose earnings were less than ten thousand dollars (\$10,000), and that most women are in the workforce because of economic need; that the average working woman has earned less than the average working man, not only because of the lack of educational and employment opportunities in the past, but because of segregation into historically undervalued occupations where wages have been depressed; and that a failure to reassess the basis on which salaries in state service are established will perpetuate these pay inequities, which have a particularly discriminatory impact on minority and older women; and, therefore, it is the intent of the Legislature in enacting this statute to establish a state policy of setting salaries for female-dominated jobs on the basis of comparability of the value of the work.

(b) The department shall review and analyze existing information, including those studies from other jurisdictions relevant to the setting of salaries for female-dominated jobs. This information shall be provided on an annual basis to the appropriate policy committee of the Legislature and to the parties meeting and conferring pursuant to Section 3517.

(c) For the purpose of implementing this section, the following definitions apply:

(1) "Salary" means, except as otherwise provided in Section 18539.5, the amount of money or credit received as compensation for service rendered, exclusive of mileage, traveling allowances, and other sums received for actual and necessary expenses incurred in the performance of the state's business, but including the reasonable value of board, rent, housing, lodging, or similar advantages received from the state.

(2) "Comparability of the value of the work" means the value of the work performed by an employee, or group of employees within a class or salary range, in relation to the value of the work of another employee, or group of employees, to any class or salary range within state service.

(3) "Skill" means the skill required in the performance of the work, including any type of intellectual or physical skill acquired by the employee through experience, training, education, or natural ability.

(4) "Effort" means the effort required in the performance of the work, including any intellectual or physical effort.

(5) "Responsibility" means the responsibility required in the performance of the work, including the extent to which the employer relies on the employee to perform the work, the importance of the duties, and the accountability of the employee for the work of others and for resources.

(6) "Working conditions" means the conditions under which the work of an employee is performed, including physical or psychological factors.

(d) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

19827.3. In order for the state to recruit skilled firefighters for the California Department of Forestry and Fire Protection, it is the policy of the state to consider prevailing salaries and benefits prior to making salary recommendations. In order to provide comparability in pay, the Department of Personnel Administration shall take into consideration the salary and benefits of other jurisdictions employing 75 or more full-time firefighters who work in California.

19827.5. (a) There is allocated from the salary or wage paid to a member of the clergy, in an amount up to 50



## APPENDIX A (CONTINUED)

percent of the gross salary, either of the following:

(1) The rental value of a home furnished to him or her.

(2) The rental allowance paid to him or her to rent or provide a home.

(b) As used in this section, a "member of the clergy" means a priest, minister, religious practitioner, or similar functionary of a religious denomination or religious organization.

19828. (a) Reasonable opportunity to be heard shall be provided by the department to any employee affected by a change in the salary range for the class of his or her position.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

19829. (a) Salary ranges shall consist of minimum and maximum salary limits. The department shall provide for intermediate steps within these limits to govern the extent of the salary adjustment that an employee may receive at any one time; provided, that in classes and positions with unusual conditions or hours of work or where necessary to meet the provisions of state law recognizing differential statutory qualifications within a profession or prevailing rates and practices for comparable services in other public employment and in private business, the department may establish more than one salary range or rate or method of compensation within a class.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

19830. (a) The minimum and maximum salary limits for laborers, workers, and mechanics employed on an hourly or per diem basis need not be uniform throughout the state, but the appointing power shall ascertain and report to the department, as to each position, the general prevailing rate of the wages in the various localities of the state. In fixing the minimum and maximum salary limits within the various localities of the state, the department shall take into account the prevailing rates of wages in the localities in which the employee is to work and other relevant factors, and shall not fix the minimum salary limits below the general prevailing rate so ascertained and reported for the various localities.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

19831. (a) The department may authorize payments into a private fund to provide health and welfare benefits to nonpermanent employees in classes compensated in accordance with the provisions of Section 19830 where the department finds as to any position that:

(1) The payments by employers are the prevailing practice in comparable employment in the locality of the work and the payments are for the purpose of providing to employees specified benefits such as, but not limited to, hospital, medical, surgical, and life insurance, sick leave, vacation allowance, pensions, supplementary unemployment and disability compensation, and other similar or related health and welfare benefits, or any combination thereof.

(2) Participation in the benefits provided by the funds is not limited to state employees.

(3) The provisions of the plans which provide the benefits meet the standards established by the department.

(b) Payments made by the state to any fund on behalf of any employee shall be in lieu of benefits such as vacation allowance, sick leave, and retirement which are now or may hereafter be granted directly by the state in accordance with law.

(c) The department is empowered to determine the equitable application of this section to insure that the employees receive benefits comparable to, but not in excess of, those provided in comparable private employment.

(d) The payments authorized by this section shall be a proper charge against any funds available for the support of the employing agency.

(e) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

19832. (a) After completion of the first year in a position, each employee shall receive a merit salary adjustment equivalent to one of the intermediate steps during each year when he or she meets the standards of efficiency as the department by rule shall prescribe.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum

## APPENDIX A (CONTINUED)

of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

19833. (a) When the compensation of an employee is established at a fixed amount per unit of work with a maximum limit for his or her total annual or monthly compensation as an alternative method of compensation for the salary fixed for the class, the department shall provide for annual increases in the maximum limit equal in amount and payable under the same conditions as for other employees.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

19834. (a) Automatic salary adjustments shall be made for employees in the state civil service in accordance with this chapter and department rule adopted pursuant hereto, notwithstanding the power now or hereafter conferred on any officer to fix or approve the fixing of salaries, unless there is not sufficient money available for the purpose in the appropriation from which the salary shall be paid and the director shall so certify.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

19835. (a) The right of an employee to automatic salary adjustments is cumulative for a period not to exceed two years and he or she shall not, in the event of an insufficiency of appropriation, lose his or her right to these adjustments for the intermediate steps to which he or she may be entitled for this period.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

19835.5. In submitting budgetary requirements to the Director of Finance, each appointing power shall carefully estimate and call attention to the need for money

sufficient to provide for appropriate salary adjustments for the employees under his or her jurisdiction.

19836. (a) The department may authorize payment at any step above the minimum salary limit to classes or positions in order to meet recruiting problems, to obtain a person who has extraordinary qualifications, to correct salary inequities resulting from actions by the department or State Personnel Board, or to give credit for prior state service in connection with appointments, promotions, reinstatements, transfers, reallocations, or demotions. Other salary adjustments within the salary range for the class may be made upon the application of the appointing power and with the approval of the director. Adjustments within the salary range authorized by this section may be either permanent or temporary and may be made retroactive to the date of application for this change.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

19836.1. (a) For purposes of this section:

(1) "Excluded employee" means the same as in subdivision (b) of Section 3527.

(2) "Excluded employee organization" means the same as in subdivision (d) of Section 3527.

(3) "Exempt employee" means a state employee who is exempt pursuant to subdivision (e), (f), or (g) of Section 4 of Article VII of the California Constitution.

(b) There is in state government the State Excluded and Exempt Employees Salary-Setting Task Force, which shall be formed to create a new process to address the status of salary and benefit levels of excluded and exempt employees. The task force shall, prior to July 1, 2004, recommend to the Governor and the Legislature a process that can identify and implement equitable salary and benefit changes over time for excluded and exempt positions in state government.

(c) The task force shall consist of no more than 12 participants. Six participants representing state management shall be appointed by the Director of the Department of Personnel Administration and six participants shall be appointed by excluded employee organizations registered with the state. No person may receive compensation for serving as a member except that release time shall be granted by the state for employee organization members who are employed by the State of California. The chair of the task force shall be the Director of the Department of Personnel Administration, or his or her designee.

(d) Any process recommended by the task force shall at least include consideration of the following:

(1) The cost of living, as reflected in the Consumer

## APPENDIX A (CONTINUED)

Price Index, the West Coast Index, and other key California statistics from the Bureau of Labor Statistics of the United States Department of Labor, San Francisco and Los Angeles.

(2) Compensation paid to comparable occupations or benchmark classes in California cities, counties, and special districts, the University of California System, the California State University, the federal government, and the private sector.

(3) Wages, benefits, and other compensation paid to rank-and-file state employees under approved memoranda of understanding.

(4) Excluded employee salaries, benefits, and other compensation items.

(e) In preparing its recommendation, the task force shall consider the history of excluded employee salary and benefit changes, the timing of the change in the compensation process, factors affecting excluded employee compensation, and the provisions of the excluded employee compensation package.

(f) The State Excluded and Exempt Employees Salary-Setting Task Force shall remain in existence until June 30, 2005, and as of that date this section is inoperative. This section is repealed as of Jan. 1, 2006, unless a later enacted statute, enacted on or before Jan. 1, 2006, deletes or extends that date and the task force's existence.

19837. (a) Employees in a class shall receive a salary within the limits established for that class; provided, that when a position has been allocated to a lower class or the salary range or rate of pay of the class is reduced, the department may authorize the payment of a rate above the maximum of the class; and provided further, that when an employee is moved to a position in a lower class because of reductions in force or other management-initiated changes, the department may, when recommended by the appointing power, authorize the payment of a rate above the maximum of the class for such time as the department may designate to the employee whose service has been fully satisfactory, who has completed a minimum of 10 years of state service, and who meets other eligibility standards established by the department. "State service," for the purpose of this section, may include up to one year during which the employee was off the state payroll while laid off, or on leave of absence for the purpose of lessening the effect of impending layoff or demotion. It is the responsibility of the employee to request credit for such time from the department. Such service shall not be credited for retirement purposes.

The department may, upon recommendation of the appointing power, apply the provisions of this section to employees who, prior to the effective date of the amendments to this section made at the 1971 Regular Session of the Legislature, moved to a position in a lower class because of reductions in force or other management-initiated changes, provided such employees have more than 30 years state service prior to the effective date of such amendments and were so demoted on July 1, 1968.

During such time as an employee's salary remains above the maximum rate of pay for his or her class, the employee shall not receive further salary increases.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

19838. (a) When the state determines an overpayment has been made to an employee, it shall notify the employee of the overpayment and afford the employee an opportunity to respond prior to commencing recoupment actions. Thereafter, reimbursement shall be made to the state through one of the following methods mutually agreed to by the employee and the state:

(1) Cash payment or payments.

(2) Installments through payroll deduction to cover at least the same number of pay periods in which the error occurred. When overpayments have continued for more than one year, full payment may be required by the state through payroll deductions over the period of one year.

(3) The adjustment of appropriate leave credits or compensating time off, provided that the overpayment involves the accrual or crediting of leave credits (e.g., vacation, annual leave, or holiday) or compensating time off. Any errors in sick leave balances may only be adjusted with sick leave credits.

Absent mutual agreement on a method of reimbursement, the state shall proceed with recoupment in the manner set forth in paragraph (2).

(b) An employee who is separated from employment prior to full repayment of the amount owed shall have withheld from any money owing the employee upon separation an amount sufficient to provide full repayment. If the amount of money owing upon separation is insufficient to provide full reimbursement to the state, the state shall have the right to exercise any and all other legal means to recover the additional amount owed.

(c) Amounts deducted from payment of salary or wages pursuant to the above provisions, except as provided in subdivision (b), shall in no event exceed 25 percent of the employee's net disposable earnings.

(d) No administrative action shall be taken by the state pursuant to this section to recover an overpayment unless the action is initiated within three years from the date of overpayment.

(e) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

# APPENDIX B

## CALIFORNIA CITIZENS COMPENSATION COMMISSION

### FACT SHEET

The Commission was created in June 1990 through the voters' passage of Proposition 112. This Proposition also prohibited honoraria and limited gifts for legislators and other elected state officers. It was placed on the ballot by the Legislature.

The Commission has seven members. All are appointed by the Governor for six-year terms.

Proposition 112 requires the Commissioners to meet by June 30 of each year to decide what, if any, changes should be made to the salaries and health, dental, and similar group insurance benefits for members of the Legislature, Governor, Lieutenant Governor, Attorney General, Secretary of State, Controller, Treasurer, Insurance Commissioner, Superintendent of Public Instruction, and members of the Board of Equalization. All actions of the Commission are effective on a December-to-December basis.

The Commission does not decide legislative per diem. That is set by the California Victim Compensation and

Government Claims Board (formerly known as the Board of Control). The Commission does not have jurisdiction over retirement benefits. The California Public Employees Retirement System administers the retirement benefits for elected State officers who still receive them. (Under Proposition 140, members entering the Legislature in or after 1990 do not receive State retirement benefits.)

In reaching salary and benefit decisions, Proposition 112 requires the Commission to consider: 1) the amount of time required to perform the duties of the office; 2) the salaries and benefits received by other elected and appointed officials in state and local government, the judiciary, and the private sector, realizing that public sector officers do not expect to receive the same salaries and benefits as private sector executives; and 3) the responsibility and authority of the office.

*(This fact sheet was reproduced from the Department of Personnel Administration's Web site: [www.dpa.ca.gov/jobinfo/CCCCfactsheet172004.htm](http://www.dpa.ca.gov/jobinfo/CCCCfactsheet172004.htm))*

# APPENDIX C

## CALIFORNIA GOVERNMENT CODE SECTION 3513(c)

3513. (c) "State employee" means any civil service employee of the state, and the teaching staff of schools under the jurisdiction of the State Department of Education or the Superintendent of Public Instruction, except managerial employees, confidential employees, supervisory employees, employees of the Department of Personnel Administration, professional employees of the Department of Finance engaged in technical or analytical state budget preparation other than the auditing staff, professional employees in the Personnel/Payroll

Services Division of the Controller's office engaged in technical or analytical duties in support of the state's personnel and payroll systems other than the training staff, employees of the Legislative Counsel Bureau, employees of the Bureau of State Audits, employees of the office of the Inspector General, employees of the board, conciliators employed by the State Conciliation Service within the Department of Industrial Relations, and intermittent athletic inspectors who are employees of the State Athletic Commission.

# APPENDIX D

## CALIFORNIA GOVERNMENT CODE SECTIONS 3535 ET SEQ

3525-3539.5 3525. This chapter shall be known, and may be cited, as the Bill of Rights for State Excluded Employees.

3526. The purpose of this chapter is to inform state supervisory, managerial, confidential, and employees otherwise excepted from coverage under the Ralph C. Dills Act by subdivision (c) of Section 3513 of their rights and terms and conditions of employment, and to inspire dedicated service and promote harmonious personnel relations among those representing state management in the conduct of state affairs.

3527. As used in this chapter: (a) "Employee" means a civil service employee of the State of California. The "State of California" as used in this chapter includes such state agencies, boards, and commissions as may be designated by law that employ civil service employees, except the University of California, Hastings College of the Law, and the California State University.

(b) "Excluded employee," means all managerial employees, as defined in subdivision (e) of Section 3513, all confidential employees, as defined in subdivision (f) of Section 3513, and all supervisory employees, as defined in subdivision (g) of Section 3513, and all civil service employees of the Department of Personnel Administration, professional employees of the Department of Finance engaged in technical or analytical state budget preparation other than the auditing staff, professional employees in the Personnel/Payroll Services Division of the Controller's office engaged in technical or analytical duties in support of the state's personnel and payroll systems other than the training staff, employees of the Legislative Counsel Bureau, employees of the Bureau of State Audits, employees of the Public Employment Relations Board, conciliators employed by the State Conciliation Service within the Department of Industrial Relations, and intermittent athletic inspectors who are employees of the State Athletic Commission.

(c) "Supervisory employee organization" means an organization which represents members who are supervisory employees under subdivision (g) of Section 3513.

(d) "Excluded employee organization" means an organization which includes excluded employees of the state, as defined in subdivision (b), and which has as one of its primary purposes representing its members in employer-employee relations. Excluded employee organization includes supervisory employee organizations.

(e) "State employer" or "employer," for purposes of meeting and conferring on matters relating to supervisory employer-employee relations, means the Governor or his or her designated representatives.

3528. The Legislature hereby finds and declares that the rights and protections provided to excluded employees under this chapter constitute a matter of important concern. The Legislature further finds and declares that the efficient and effective administration of state programs depends upon the maintenance of high morale and the objective consideration of issues raised between excluded employees and their employer.

3529. (a) Except for supervisory employees as defined in subdivision (g) of Section 3513, excluded employees shall not hold any office in an employee organization which also represents nonexcluded employees.

(b) Excluded employees shall not participate in the handling of grievances on behalf of nonexcluded employees. Nonexcluded employees shall not participate in the handling of grievances on behalf of excluded employees.

(c) Excluded employees shall not participate in meet and confer sessions on behalf of nonexcluded employees. Nonexcluded employees shall not participate in meet and confer sessions on behalf of supervisory employees.

(d) The prohibition in subdivisions (b) and (c) shall not apply to the paid staff of an excluded or supervisory employee organization.

(e) Excluded employees shall not vote on questions of ratification or rejection of memoranda of understanding reached on behalf of nonexcluded employees.

3530. Excluded employee organizations shall have the right to represent their excluded members in their employment relations, including grievances, with the State of California. Excluded employee organizations may establish reasonable restrictions regarding who may join and may make reasonable provisions for the dismissal of excluded employees from membership. This section shall not prohibit any excluded employee from appearing on his or her own behalf or through his or her chosen representative in his or her employment relations and grievances with the State of California.

3531. Supervisory employees shall have the right to form, join, and participate in the activities of supervisory employee organizations of their own choosing for the purpose of representation on all matters of supervisory employer-employee relations, as set forth in Section 3532. Supervisory employees also shall have the right to refuse to join or participate in the activities of supervisory employee organizations and shall have the right to represent themselves individually in their employment relations with the public employer.

3532. The scope of representation for supervisory

## APPENDIX D (CONTINUED)

employees shall include all matters relating to employment conditions and supervisory employer-employee relations including wages, hours, and other terms and conditions of employment.

3533. Upon request, the state shall meet and confer with verified supervisory employee organizations representing supervisory employees. "Meet and confer" means that they shall consider as fully as the employer deems reasonable such presentations as are made by the verified supervisory employee organization on behalf of its supervisory members prior to arriving at a determination of policy or course of action.

3534. The state employer shall allow a reasonable number of supervisory public employee representatives of verified supervisory employee organizations reasonable time off without loss of compensation or other benefits when meeting and conferring with representatives of the state employer on matters within the scope of representation for supervisory employees.

3535. The Department of Personnel Administration may adopt rules and regulations for the administration of excluded employer-employee relations, including supervisory employer-employee relations, under these provisions. Such rules and regulations may include provisions for: (a) Verifying that an excluded employee organization does in fact represent excluded employees. (b) Verifying the official status of excluded employee organization officers and representatives. (c) Access of excluded employee organization officers and representatives to work locations. (d) Use of official bulletin boards and other means of communication by excluded employee organizations. (e) Furnishing nonconfidential information pertaining to excluded employee relations to excluded employee organizations. (f) Any other matters as are necessary to carry out the purposes of this chapter.

3536. The state may adopt reasonable rules and regulations providing for designation of the management and confidential employees of the state and restricting these employees from representing any employee organization, which represents other employees of the state, on matters within the scope of representation. Except as specifically provided otherwise in this chapter, this section does not otherwise limit the right of excluded employees to be members of and to hold office in an excluded employee organization.

3537. Every excluded employee organization shall submit an annual registration statement on or before July 1 of each calendar year to the Department of Personnel Administration. The registration statement shall, at a minimum, list the name of the organization, its affiliations, headquarters, and other business addresses, its principal business telephone number, a list of principal officers

and representatives, and a copy of its organization bylaws.

3538. The state employer and excluded employee organizations shall not interfere with, intimidate, restrain, coerce, or discriminate against supervisory employees because of their exercise of their rights under this article.

3539. The enactment of this chapter shall not make Section 923 of the Labor Code applicable to state employees.

3539.5. The Department of Personnel Administration may adopt or amend regulations to implement employee benefits for those state officers and employees excluded from, or not otherwise subject to, the Ralph C. Dills Act. These regulations shall not be subject to the review and approval of the Office of Administrative Law pursuant to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2). These regulations shall become effective immediately upon filing with the Secretary of State.

# APPENDIX E

## CALIFORNIA CONSTITUTION ARTICLE 7, SECTION 4

California Constitution Article 7 Public Officers and Employees Section 4: The following are exempt from civil service:

(a) Officers and employees appointed or employed by the Legislature, either house, or legislative committees.

(b) Officers and employees appointed or employed by councils, commissions or public corporations in the judicial branch or by a court of record or officer thereof.

(c) Officers elected by the people and a deputy and an employee selected by each elected officer.

(d) Members of boards and commissions.

(e) A deputy or employee selected by each board or commission either appointed by the Governor or authorized by statute.

(f) State officers directly appointed by the Governor with or without the consent or confirmation of the Senate and the employees of the Governor's office, and the employees of the Lieutenant Governor's office directly appointed or employed by the Lieutenant Governor.

(g) A deputy or employee selected by each officer,

except members of boards and commissions, exempted under Section 4(f).

(h) Officers and employees of the University of California and the California State Colleges.

(i) The teaching staff of schools under the jurisdiction of the Department of Education or the Superintendent of Public Instruction.

(j) Member, inmate, and patient help in state homes, charitable or correctional institutions, and state facilities for mentally ill or retarded persons.

(k) Members of the militia while engaged in military service.

(l) Officers and employees of district agricultural associations employed less than 6 months in a calendar year.

(m) In addition to positions exempted by other provisions of this section, the Attorney General may appoint or employ six deputies or employees, the Public Utilities Commission may appoint or employ one deputy or employee, and the Legislative Counsel may appoint or employ two deputies or employees.